

NTSB Order No. EA-4057

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 7th day of January 1994

Respondent.

Docket SE-13089

The record establishes that respondent on August 5, 1993, filed a timely notice of appeal from the oral initial decision the law judge rendered on August 3, 1993.² However, respondent did not file an appeal brief until September 28, 1993, 6 days after the filing deadline.³ In response to the motion to dismiss the respondent states that he believed that he had 50 days from the date that he filed his notice of appeal to file his appeal brief. We find no justification for respondent's error. The applicable rule clearly states that an appeal brief is due 50 days after an oral initial decision has been rendered, and the law judge orally so advised the respondent at the hearing. Thus, it does not appear that the lateness of the brief is excusable for good cause shown. See, e.g., Administrator v. Near, 5 NTSB 994 (1986) (Unfounded mistake as to filing requirement does not constitute good cause).

In the absence of good cause to excuse respondent's noncompliance with the time limit for filing an appeal brief, his appeal must be dismissed. See Administrator v. Hooper, NTSB Order No. EA-2781 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

VOGT, Chairman, COUGHLIN, Vice Chairman, LAUBER, HAMMERSCHMIDT, and HALL, Members of the Board, concurred in the above order.

²The law judge's decision affirms an order of the Administrator revoking respondent's commercial pilot certificate (480784237) for alleged violations of section 610(a)(2) of the Federal Aviation Act and sections 61.3(a), 61.3(d)(1), (2) and (3) and 61.59(a)(1) and (2) of the Federal Aviation Regulations.

³The respondent did not file his appeal brief or his response to the Administrator's motion to dismiss with the Board. The Board was provided with copies from the Federal Aviation Administration.